

## Minutes of the County Commissioners of Worcester County, Maryland

November 5, 2008

Virgil L. Shockley, President  
Louise L. Gulyas, Vice President  
Judith O. Boggs  
Linda C. Busick  
James C. Church (Absent)  
Robert L. Cowger, Jr.  
James L. Purnell, Jr.

Following a motion by Commissioner Gulyas, seconded by Commissioner Cowger, with Commissioner Church absent, the Commissioners unanimously voted to meet in closed session at 10:00 a.m. in the Commissioners' Conference Room to discuss legal and personnel matters permitted under the provisions of Section 10-508(a)(1), (3), (7) and (8) of the State Government Article of the Annotated Code of Maryland and to perform executive actions. Also present at the closed session were Gerald T. Mason, Chief Administrative Officer; Kelly Shannahan, Assistant Chief Administrative Officer; Sonny Bloxom, County Attorney; Kim Moses, Public Information Officer; George Bradley, Director of Human Resources; Jerry Redden, Director of Economic Development; and Jo Ellen Bynum, Housing Program Administrator. Topics discussed and actions taken included: considering acquisition of real property for public use; reviewing potential and pending litigation; receiving legal advice from counsel; and performing executive actions.

Commissioner Church was absent from the meeting.

After the closed session, the Commissioners reconvened in open session. Commissioner Shockley called the meeting to order and announced the topics discussed during the morning closed session.

The Commissioners reviewed and approved the minutes of their October 21, 2008 meeting, as presented.

The Commissioners presented a proclamation to John and Diane Baldwin and several other members of the Local People of Mother Earth tribe recognizing November as Native American Heritage Month and, specifically November 28 as Native American Heritage Day.

The Commissioners presented a commendation to Berlin Intermediate School (BIS) Principal Dr. John Gaddis commending the staff and students for their outstanding achievement in arts education, which earned BIS the title of 2007-2008 John F. Kennedy Center for Performing Arts National School of Distinction in Arts Education, an honor bestowed upon on five schools in the nation. Dr. Gaddis thanked the Commissioners and his staff for their support..

Pursuant to the recommendation of Housing Program Administrator Jo Ellen Bynum and

upon a motion by Commissioner Gulyas, the Commissioners unanimously awarded the low bid for general rehabilitation work to be done at a single family, owner-occupied property in the Berlin area to Shoreman Construction of Delmar, Maryland at a cost of \$22,305.

Pursuant to the request of Ms. Bynum and upon a motion by Commissioner Purnell, the Commissioners unanimously approved bid specifications for the general rehabilitation of two, single-family, owner occupied homes located in the Snow Hill and Pocomoke areas.

Pursuant to the request of Tourism Director Lisa Challenger and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized staff to apply for a grant from the Community Foundation of the Eastern Shore of up to \$7,500 to be used to fund the Beach & Beyond Artist/Gallery Guide. Ms. Challenger advised that the project is expected to cost approximately \$15,000, and the County has received matching funds from the Rural Development Center and the Lower Eastern Shore Heritage Council to help cover project costs.

Pursuant to the request of Budget Accountant Kim Johnson and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized Commission President Shockley to sign the 2008 Rental Allowance Program Grant Application and Grant Agreement in the amount of \$30,000 between the Maryland Department of Housing and Community Development (DHCD) and Worcester County to be administered by the Worcester County Department of Social Services.

Pursuant to the request of Emergency Services Director Teresa Owens and upon a motion by Commissioner Purnell, the Commissioners unanimously authorized Commission President Shockley to sign a Memorandum of Agreement between the Maryland Emergency Management Agency (MEMA) and Worcester County regarding the FFY 2008 Homeland Security Grant Program, awarding the County \$397,786 from the State Homeland Security Program, of which 25% is mandated to go toward the Law Enforcement Terrorism Prevention Program, and an as yet undetermined amount for the Citizen Corps Program. Ms. Owens advised that the salary and expenses for the County's Emergency Planner is also included in the grant award.

Pursuant to the request of Ms. Owens and upon a motion by Commissioner Purnell, the Commissioners unanimously authorized staff to move forward with Phase II of a Security Camera Conversion Project, which would convert the security cameras in the Sheriff's Office to the new Internet Protocol (IP) based system and to be installed by Absolute Security Group, Inc. of Salisbury, Maryland at a cost of \$16,861.26. Ms. Owens reminded the Commissioners that at their October 7, 2008 meeting authorization had been granted to convert cameras in the 911 Center to an IP System using funds of \$35,602.95 from the Emergency Number Systems Board (ENSB), and at that time, the County had named Absolute Security Group to be the sole source vendor for the County's integration to the IP system as well as the maintenance provider to the upgraded closed circuit camera system, which will enable all cameras located in the Court House, Government Center and new State's Attorney's Office to reside on the same server, and have UPS backup power supply to provide access 24 hours a day. Ms. Owens advised that funds were available for Phase II, though ENSB grant monies could not be used to fund this portion of

the project since the security cameras in the Sheriff's Office are not directly related to the 911 Center's security.

Pursuant to the request of George King of the Health Department and upon a motion by Commissioner Boggs, the Commissioners conceptually authorized Commission President Shockley to sign an amended lease agreement for an apartment at 403 6<sup>th</sup> Street in Ocean City to be utilized by the Health Department from November 1, 2008 - October 31, 2009 at a cost of \$13,500.00 to provide temporary housing for seasonal sanitarians who assist with the Environmental Health program during the summer months and possibly for an intern during the remainder of the year. County Attorney Sonny Bloxom explained that some errors exist in the original lease agreement, and advised that he would work with the lessor to draft an amended agreement.

Pursuant to the recommendation of Recreation and Parks Director Sharon DeMar Reilly and upon a motion by Gulyas, the Commissioners unanimously awarded Option #2 for the installation of softball field lighting on two fields at Showell Park and two fields at Newtown Park to Austin Cox Mechanical, Inc. of Salisbury, Maryland at a total cost of \$428,000. Commissioner Boggs commended staff for their wise use of taxpayer dollars.

Pursuant to the request of Ms. Reilly and upon a motion by Commissioner Purnell, the Commissioners unanimously approved bid specifications for the purchase of a 72" front mount mower for use within Recreation and Parks.

Pursuant to the request of Comprehensive Planning Director Sandy Coyman and upon a motion by Commissioner Boggs, the Commissioners unanimously authorized Commission President Shockley to sign a Maryland Coastal Bays Program (MCBP) Implementation Grant Application for grant funding of \$1,200 for an interpretive sign highlighting the "Living Shoreline" at Gum Point Road Boat Ramp. Mr. Coyman stated that the restoration work was funded by the Atlantic Coastal Bays Critical Area Mitigation Fund

Development Review and Permitting (DRP) Director Ed Tudor presented the Commissioners with a summary of how the draft Zoning and Subdivision Control Article (Article) implements the recommendations contained in chapter eight of the Comprehensive Plan (Plan), which is entitled "Implementation." Mr. Tudor explained that the Plan itself is not an implementation document, but rather it lays out the programs, projects and results that are desired and identifies the existing and potential tools to accomplish the Plan. He further advised that staff has tried to provide specific section references in the summary where they are contained in the Article, either in the Zoning Ordinance or the Subdivision Regulations, or in the draft Design Guidelines and Standards for Commercial Uses, with general references provided for recommendations implemented by other laws or programs. The Commissioners thanked Mr. Tudor for the summary.

Pursuant to the request of Public Works Director John Tustin and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized Commission President Shockley to sign the Worcester County Newark Sanitary Service Area (NSSA) Sewage

Collection and Treatment Agreement between the County Commissioners as the governing body of the NSSA and Board of Education as the customer. In response to a question by Commissioner Shockley, Mr. Tustin assured him that when the County will exercise caution when entering a farm property for maintenance related issues regarding a sewage pipe that runs from the Worcester Technical High School (WTHS) to the Newark Wastewater Treatment Plant.

The Commissioners met with Mr. Tustin to review and discuss the written request of Stephen R. McHenry, Chairperson of the Working Waterfront Commission of the Maryland Department of Natural Resources (DNR), to grant special use permits for commercial fishing boat dock access and a 50-foot by 50-foot unloading area for commercial seafood catch at the Public Landing boat dock. Mr. Tustin noted that the Public Landing area, which is located in the heart of a residential area, has been redeveloped and will continue to be redeveloped to allow for increased recreational boating activities and provide for 30 recreational boat slips in the near future. He stated that though the County should support the commercial fishing industry, it would not be advisable for commercial fishermen to use this particular facility due to the adverse impact on the residential neighborhood. He suggested that Taylor Landing may be a more appropriate location for a facility to serve the commercial watermen. Commissioner Cowger concurred, noting that Public Landing had been intended for recreational use only since the restoration project began several years ago. Commissioner Shockley advised that the State had awarded grant funds to cover a portion of the Public Landing project for the purpose of creating a recreational facility. He further advised that commercial fishermen from Somerset County had been granted boat slips at Public Landing on a temporary emergency basis for the 2006 summer season only after they had been displaced when developer Mark Odachowski purchased the Hargis Marina. Following some discussion and upon a motion by Commissioner Cowger, the Commissioners unanimously denied the request.

Pursuant to the recommendation of Mr. Tustin and upon a motion by Commissioner Purnell, the Commissioners unanimously agreed to waive the standard bid requirements and piggyback on a State bid from Hertrich Fleet Services, Inc. of Milford, Delaware to purchase one 2009 Dodge Grand Caravan at the contract price of \$20,007 for use by the Health Department.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Gulyas, the Commissioners unanimously awarded the low bid for the purchase and installation of blacktop to resurface various roads throughout Worcester County to American Paving Corp. of Salisbury, Maryland at a cost of \$77.61 per ton and subject to the escalation/de-escalation clause for asphalt paving based on Maryland State Highway specifications to be adjusted from the current asphalt index price of \$699 per ton.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Gulyas, the Commissioners voted 5-1, with Commissioner Shockley voting in opposition, to award the low bid for the purchase of one current model Off-Road Dump Truck for use within the Solid Waste Division of Public Works to Alban Tractor Co., Inc. at a net adjusted cost of \$113,000 after buy-back; with a monthly payment of \$5,714.59 over 60 months for a total cost to the County of \$165,875.40. Commissioner Shockley stated that the County should buy the dump truck outright

at a cost of \$290,000 rather than pay for the equipment over time. In response to a question by Commissioner Shockley, Mr. Tustin advised that the lease/purchase arrangement has worked well in the past, ensuring that equipment stays in excellent condition. He further stated that Solid Waste revenues are down by approximately 50% due to drastic decreases in commercial waste, and now is not the time to incur large up front costs.

Pursuant to the request of Mr. Tustin and upon a motion by Commissioner Gulyas, the Commissioners voted 5-1, with Commissioner Shockley voting in opposition, to award the low bid for the lease/purchase of one current model Landfill Excavator for use within the Solid Waste Division of Public Works to Alban Tractor Co. at a net adjusted cost of \$152,500 after buy-back, with a monthly payment of \$6,009.84 over 60 months for a total cost to the County of \$208,090.40.

The Commissioners met with Mr. Tustin to review the Semi-Annual Gas Monitoring Reports for the Central Landfill, Berlin, Snow Hill and Pocomoke Landfills submitted by EA Engineering of Sparks, Maryland. Mr. Tustin reviewed the reports, noting that there are no traces of methane gas indicated on any of the wells at the Central Landfill, and only one minor concentration of methane gas located in probe five at the Pocomoke Landfill that has not migrated off the property, but will continue to be monitored. He advised that three of the 15 probes, GP-3, 5 and 10, at the Snow Hill Landfill are above the Lower Explosive Limit (LEL), and there appears to be some westward migration of methane gas at the Berlin Landfill, with seven temporary gas probes having been installed along the westerly boundary to try to remedy the situation. Mr. Tustin advised that the Maryland Department of the Environment (MDE) requires the County to provide remedial plans to reduce the concentration of methane gas to below the LEL at the landfill boundaries in accordance with Code of Maryland Regulations (COMAR). In response to a question by Commissioner Purnell, Mr. Tustin advised that the methane gas at the Berlin site is migrating in a westward direction toward the woods and away from the community. Following some discussion and upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized staff to work with EA Engineering to develop remedial plans as requested.

The Commissioners met with Mr. Tustin to discuss the following recommendations with regard to the County Landfill: closing the County Landfill at noon on Wednesday, December 24, 2008, Christmas Eve, as are other County Departments; and closing the County Landfill at noon each Saturday through the winter effective immediately, with a return to standard operating hours in early spring of 2009. Upon a motion by Commissioner Gulyas, the Commissioners unanimously authorized the closing of the County Landfill at noon on Christmas Eve to re-open the day after Christmas. With regard to closing the Landfill at noon on Saturdays through the winter, Mr. Tustin stated that when Public Works began looking at steps to cut costs at the Landfill without significantly cutting service to the citizens, it was noticed that less than a handful of vehicles use the Landfill on Saturday afternoons in the off-season. He advised that the County could reduce fuel costs related to the operation of equipment at the Landfill by closing early on Saturdays throughout the winter. Commissioner Cowger stated that such a schedule change would likely inconvenience area residents, and any fuel savings would be minimal at

best. In response to a question by Commissioner Cowger, Mr. Tustin stated that the four employees who work at the Landfill on Saturdays would each continue to work 40-hour weeks as follows: working four hours each Saturday; and increasing from 8-hour shifts to 9-hour shifts the other four work days. Commissioner Boggs supported the recommendation and expressed appreciation for Mr. Tustin's cost-cutting mindset. Commissioner Gulyas agreed and stated that it was worth a try. Commissioner Purnell expressed concern regarding reduced services to the public. Following some discussion and upon a motion by Commissioner Purnell, the Commissioners voted 4-2, with Commissioners Boggs and Gulyas voting in opposition, to take no action at this time, but agreed to consider the matter again in January to allow staff to further track the use of the Landfill on Saturdays.

The Commissioners reviewed a memo from Assistant Chief Administrative Officer Kelly Shannahan regarding the Commissioners' meeting schedule and budget schedule for 2009. Upon a motion by Commissioner Gulyas, the Commissioners unanimously approved their schedule of meeting dates and budget schedule for calendar year 2009 as proposed. The Commissioners' meetings are generally held on the 1<sup>st</sup> and 3<sup>rd</sup> Tuesday of each month, except where such dates fall on a legal holiday or other conflicting event. In the year 2009, there are no conflicting holidays. The only potential conflict is the National Hurricane Conference in Austin, Texas from April 6-10, 2009. However, due to the freeze on out-of-state travel this event does not pose a conflict.

The Commissioners reviewed a memo from Mr. Shannahan along with a revised resolution to permit the withdrawal of eligible law enforcement officers from the Employees' Pension System at their request and transfer those certified officers to the Law Enforcement Officers' Pension System (LEOPS) of the State Retirement and Pension System of Maryland. In his memo, Mr. Shannahan advised that the resolution was revised following receipt of an opinion from the Maryland Attorney General's Office, which states that since Worcester County has approved participation of its law enforcement officers in LEOPS, all certified law enforcement officers employed by the County should have the option of joining LEOPS as of July 1, 2008. The revised resolution enables certified law enforcement officers of the Worcester County State's Attorney's Office and the Fire Marshal's Office to elect to participate in LEOPS. Following some discussion and upon a motion by Commissioner Gulyas, the Commissioners unanimously adopted Resolution No. 08-31 as presented.

Chief Administrative Officer Gerald T. Mason advised the Commissioners that the bond market has rebounded, with improved interest rates in the range of 4.41%. He advised that this interest rate is just slightly higher than the original projection of 4% from over a year ago, and stated that the County's Financial Advisor, Sam Ketterman, and Bond Counsel, Robert Doory, now recommend scheduling the bond sale during their Tuesday, November 18, 2008 meeting. Commissioner Boggs stated that the Commissioners should heed the recommendation of their financial advisors. Commissioner Cowger advised that since the County does not need the funds at this time it would be more prudent to postpone the bond sale until January 2009 to allow more time to watch the market. Commissioner Shockley concurred. In response to a question by Commissioner Cowger, Mr. Mason advised that the County has the ability to refinance bonds at

a lower rate when such becomes available. Following some discussion and upon a motion by Commissioner Boggs, the Commissioners voted 4-2, with Commissioners Cowger and Shockley voting in opposition, to adopt Resolution No. 08-32, County Commissioners of Worcester County, Maryland Public Improvement Bonds, 2008 Series Establishment of New Date of Sale and Change of Date of Issue, changing the date of issue of the bonds from October 15, 2008 to November 15, 2008.

Commissioner Cowger advised that following the passage of a State referendum on slots it was incorrectly reported by a member of the local media that the County was planning to block slots in Worcester County through changes in zoning. He advised that the report was inaccurate and at no time have the Commissioners entertained such discussions.

Commissioner Gulyas thanked representatives from Atlantic General Hospital and the Commission on Aging for the overwhelming success of a recent health fair held at the Charles and Martha Fulton Senior Center in Snow Hill. She advised that Health Department officials gave out more than 300 flu vaccines during the event.

The Commissioners answered questions from the press, after which they adjourned to meet in closed session.

Following a motion by Commissioner Gulyas, seconded by Commissioner Boggs, with Commissioner Church absent, the Commissioners unanimously voted to meet with the Board of Education for a closed session lunch at the County Jail at 12:15 p.m. to discuss legal matters permitted under the provisions of Section 10-508(a)(7) and (8) of the State Government Article of the Annotated Code of Maryland and to perform executive actions. Also present at the closed session were Gerald T. Mason, Chief Administrative Officer; Kelly Shannahan, Assistant Chief Administrative Officer; Sonny Bloxom, County Attorney; Kim Moses, Public Information Officer; and Board of Education (BOE) members Garry Mumford, President; Bob Hulburd, Vice President; Jonathan Cook; Doug Dryden; Bob Rothermel; Donnie Shockley; and Sara Thompson; Dr. Jon Andes, Superintendent of Schools; Edward Barber, Assistant Superintendent for Administration; Dr. Richard Walker, Assistant Superintendent for Instruction; BOE staff Vince Tolbert, Chief Financial Officer; and Joe Price, Facilities Manager; and Jim Almand; BOE Attorney. Topics discussed and actions taken included: reviewing potential and pending litigation; and receiving legal advice from counsel.

After lunch, the board adjourned to meet again on November 18, 2008.